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# CONVENTIONS ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT AND ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

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Mr. PELL, from the Committee on Foreign Relations, submitted the following

## REPORT

[To accompany Treaty Doc. 100-4]

The Committee on Foreign Relations, to which was referred two Conventions: (A) the Convention on Early Notification of a Nuclear Accident, with declaration; and (B) the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, with declarations; both adopted in Vienna at a special session of the General Conference of the International Atomic Energy Agency on September 26, 1986, and signed by the United States on that date, having considered the same, reports favorably thereon without amendment and recommends that the Senate give its advice and consent to ratification thereof.

### PURPOSE

The two conventions were developed to respond to nuclear accidents like Chernobyl. Specifically, the Convention on Early Notification of a Nuclear Accident requires state parties to notify potentially affected states and the International Atomic Energy Agency (IAEA) of certain nuclear accidents, and to provide and update specified basic information relevant to minimizing an accident's radiological consequences. The Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency establishes a stand-by framework under which assistance may be provided, but does not require any state party to provide or accept assistance.

### BACKGROUND

The Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or



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Radiological Emergency were developed under the auspices of the International Atomic Energy Agency (IAEA). In the aftermath of the Chernobyl accident, participants in the May, 1986, Tokyo Economic Summit agreed that it was urgent to draft a convention dealing with notification of nuclear accidents with potential transboundary consequences. The IAEA convened a meeting in Vienna to draft the conventions. From July 21 to August 15, 1986, representatives from 62 countries negotiated the conventions. The U.S. delegation, which was headed by the Department of State and included participants from the Departments of Energy and Defense, the Nuclear Regulatory Commission and the Arms Control and Disarmament Agency, played a central role in the drafting work.

The conventions were adopted by consensus at a special session of the General Conference held by the IAEA in Vienna from September 24-26, 1986, attended by 94 member states. On September 26, the conventions were opened for signature, at which time the United States and 50 other countries signed both conventions.

The conventions further one of the purposes of U.S. law—the Atomic Energy Act of 1954, as amended—to provide for a program of international cooperation to make available to cooperating nations the benefits of peaceful applications of atomic energy as widely as expanding technology and considerations of the common defense and security will permit. They also provide a means of carrying out cooperation among the IAEA and member states which the IAEA is authorized to undertake, under its statute, in the area of safety and emergency assistance.

As a prompt response by the international community to the Chernobyl accident, the conventions are politically important in themselves. They also contain important legal commitments. By creating obligations requiring notification and the provision of information relevant to minimizing radiological consequences of an accident, the notification convention provides a means of ensuring accountability of state parties with regard to nuclear accidents involving a wide range of civil and military facilities and activities; these obligations do not, however, relate to nuclear weapons-related activities. As a party to this convention, the United States will have the legal status to seek compliance of other states parties with this accountability regime.

The assistance convention encourages assistance by establishing in advance a legal framework under which assistance in the event of a nuclear accident or radiological emergency can be obtained and conducted. It does not obligate a country to provide assistance. The convention also provides the assisting party appropriate legal protection in connection with its provision of assistance. When the United States is an assisting party, the convention will thus protect U.S. interests by providing for functional privileges and immunities, certain immunities from claims and legal proceedings, and, if requested, reimbursement for the assistance provided.

Ratification of these conventions will not result in any additional costs to the Government.

SUMMARY OF THE CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

Article 1 provides that the convention applies to any accident involving specified facilities or activities of a state party or of persons or legal entities under its jurisdiction and control, from which a release of radioactive material that may result in international transboundary consequences of radiological safety significance, occurs or is likely to occur. The facilities and activities include any nuclear reactor wherever located, any nuclear fuel cycle facility activities such as transport and storage of nuclear fuel and waste, and the use of radioisotopes for purposes including agricultural, industrial, medical, and power generation in space objects.

Article 2 imposes obligations on the responsible state party to notify the agency and states that are or may be physically affected by a nuclear accident covered by article 1 and to provide available information relevant to minimizing the radiological consequences.

Article 4 sets forth the functions of the IAEA, in a manner consistent with its authority under its statute, to receive and transmit the provided notifications and information.

Article 5 specifies the information to be provided. There is no obligation to provide classified or controlled information.

Article 6 provides for a reporting state to respond promptly to requests for further information or for consultations by an affected state party. Article 7 provides for state parties to designate and inform the IAEA on an up-to-date basis of competent authorities and points of contacts for issuing and receiving notification and information referred to in article 2.

Despite the application of the convention's obligations to a wide range of civil and military facilities and activities, they do not apply to accidents involving nuclear weapons and related activities. Article 3 is a discretionary notification provision concerning nuclear accidents other than those covered by article 1 and reflects a willingness of the nuclear-weapons states that negotiated the convention to provide notification voluntarily with respect to other accidents, such as those relating to nuclear-weapons activities. Both the United States and the Soviet Union, as well as other nuclear weapons states, made statements concerning their willingness in this regard.

The United States stated that, "The United States will also voluntarily provide notification with respect to any other nuclear accident which has or may have transboundary effects of radiological safety significance."

The Soviet Union declared, "The Soviet Union is ready to notify of all nuclear accidents which could entail the danger of transboundary transfer of radioactive release."

The British stated, "The British Government will also voluntarily inform the IAEA and any states affected of any other serious accident involving the United Kingdom's military facilities or equipment, so that the nuclear industry in both the military and energy sectors will carry out their responsibility to provide the information needed by others."

The Chinese negotiator said "Now, I would like to announce that I will sign the two conventions on behalf of the Government of the

People's Republic of China and declare that China will notify on a voluntary basis nuclear accidents other than those specified in Article I of the Convention on Early Notification of a Nuclear Accident which might produce transboundary radiological effects."

The French indicated that France, irrespective of the commitments which it would take upon itself by becoming a party to the Convention on the Early Notification of a Nuclear Accident and in accordance with the option provided in article 3 of that convention, plans to provide appropriate information on nuclear accidents likely to have significant transboundary effects in the area of radiological safety which were not covered by article 1 of the convention.

Article 8 addresses concerns of African states bordering South Africa. It provides for the agency to review the feasibility, if requested by a state party without nuclear activities that borders a nonparty state with such activities, of establishing a radiation monitoring system.

Procedural provisions of the convention include: article 9, which notes that state parties may also conclude bilateral and multilateral arrangements related to this convention; article 10, which provides that the convention shall not affect other international agreements; article 12, regarding the convention's signature and entry into force; and articles 14, 16, and 17 relating, respectively, to amendments, denunciation, depository, and authentic texts and certified copies.

Article 11 sets forth procedures for submission to the International Court of Justice of disputes that state parties cannot resolve by negotiation or other peaceful means, but permits a state party to opt-out of submission to the ICJ. Because the convention covers certain military nuclear activities, the United States made a declaration at the time of signature exercising this option. This declaration is also contained in the resolution of ratification.

The Secretary of State said in his letter of submittal that the declaration "will ensure that no third party can require the United States to provide information about military facilities or activities that we deem is not required under the convention."

The committee concurs in this declaration in the belief that this convention is unique in its potential value and that the benefits to be derived will result more from good faith efforts of the parties than from meeting the minimal standards required by the convention. Legal disputes involving the provision of military information that a party believes must be protected would not strengthen the regime of the treaty. Nonetheless, this declaration in no way lessens the United States' commitment to the International Court of Justice.

The United States did not apply this convention provisionally as is permitted by article 13; however, the United States made a statement upon signature that it would voluntarily provide notification and information regarding article 1 accidents.

SUMMARY OF THE CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

Article 1 contains general statements, which are given specific effect in later articles, regarding cooperation among state parties and the IAEA to facilitate prompt assistance.

Article 2 sets forth the manner in which a state party in need of assistance may call for such assistance from any other state party and the IAEA and specify, where practicable, the scope and type of assistance needed. It also provides for requested states to advise the requesting state promptly whether it can provide assistance and on what terms. To the extent possible, state parties are called upon to advise the IAEA in advance of what assistance they may be willing to provide, and under what terms, especially financial. Article 7 permits an assisting party to provide assistance free of cost or to waive a right to reimbursement, but also creates a legal right to prompt reimbursement where assistance is provided on that basis. The United States made a declaration upon signing, which is repeated in the resolution of ratification, that reimbursement of costs is generally among the terms of assistance, unless the United States specifies otherwise or waives.

Article 3 provides that the overall direction and control of assistance is generally the responsibility of the requesting state within its territory, and that ownership of equipment and materials provided by either an assisting party or requesting state is unaffected.

Article 4 provides that state parties shall make known to the IAEA and to other state parties their competent authorities and points of contact for making and receiving requests for assistance and for accepting offers of assistance.

Article 5 requests the IAEA, in accordance with its statute, to provide assistance, by, inter alia, collecting and disseminating information on types of assistance that could be made available, helping a state party in preparing emergency plans and appropriate legislation, making available to requesting states appropriate resources allocated for the purpose of conducting an initial assessment on the accident or emergency and by offering its good offices to such states. These provisions do not require additional IAEA resources for nuclear safety and solidify the IAEA's role in this area.

Article 6 requires requesting states and assisting parties to preserve the confidentiality of, and use exclusively for its intended purposes, confidential information that becomes available in the course of assistance.

Article 8 provides "functional" privileges and immunities. These are specified to include immunity from arrest and from the criminal, civil and administrative jurisdiction of the requesting state, for personnel of the assisting party in respect of acts or omissions in the performance of their duties. While being bound generally to provide the necessary privileges and immunities, a state may declare that it will not be bound to provide any specified privileges and immunities. Since the United States will generally be an assisting party, it seeks to encourage other states to provide the most complete privileges and immunities available for assisting parties under the convention. Thus, the United States made a "reciprocity" declaration upon signature. This declaration, which is request-

ed in the resolution of ratification, means that in its treaty relations with the other state the United States considers itself bound by paragraphs 2 and 3 only to the same extent that the other state party is bound.

Article 9 provides for state parties to seek to facilitate transit of an assisting party's personnel, equipment and property through its territory.

Under article 10, state parties shall cooperate in settling claims arising in the course of providing assistance. Requesting states shall provide certain basic protections from legal proceedings and liability to an assisting party and its personnel. A state party may declare that it will not be bound by this latter provision or at least not in cases of gross negligence. Since the United States will normally be an assisting party and is therefore interested in encouraging other States not to opt out, the United States made a "reciprocity" declaration upon signature. This declaration, which is included in the resolution of ratification, means that the United States considers itself bound by paragraph 2 only to the same extent that the other state party is bound.

Article 11 provides for termination of assistance after consultation and written notification.

Article 12 concerns the convention's relationship to other agreements, and articles 14, 16, 17, 18, and 19 are procedural in nature relating to entry into force, amendments, denunciation, depository and authentic texts and certified copies, respectively.

Under article 15, a state may apply the convention provisionally, but the United States did not do so since ratification of the convention as a treaty with the advice and consent of the Senate is necessary under domestic law in order to implement articles 8 and 10 fully.

Article 13 provides for submission to the International Court of Justice of disputes that the parties cannot resolve by negotiation or other peaceful means. A state party may opt out of such procedures, and as with the notification convention, the United States made an appropriate declaration upon signature. The declaration is contained in the resolution of ratification.

While the committee appreciates the concerns regarding the protection of sensitive military information that led to this declaration, the committee expects and urges that, in any instances of disputes that may arise and do not involve such information, the United States should be prepared to agree to referral to the International Court of Justice of a dispute that cannot be resolved by other means.

## COMMITTEE ACTION

On June 28, 1988, the committee held a hearing on these two conventions. Testimony was received from the Honorable Frederick M. Bernthal, Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State. Mr. Bernthal was accompanied by Mr. Ronald J. Bettauer, Assistant Legal Adviser for International Claims and Investment Disputes, Department of State; and Mr. Richard J. Stratford, Deputy Assist-

ant Secretary for Nuclear Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State.

The committee considered the conventions at its business meeting on July 13, 1988, and voted, by voice vote, to report the conventions favorably to the Senate, with declarations, for its advice and consent to ratification.

## SECTION-BY-SECTION ANALYSIS

The Department of State has provided the committee with the following section-by-section analyses for the two conventions:

*Convention on Early Notification of a Nuclear Accident.*—The convention requires state parties to the convention to notify affected states and the IAEA of certain nuclear accidents and to provide and update specified basic information relevant to minimizing the radiological consequences in affected states.

Under article 1, the convention applies in defined circumstances to any accident involving the following facilities or activities of a state party or of persons or legal entities under its jurisdiction or control; any nuclear reactor; any nuclear fuel cycle facility; any radioactive waste management facility; the transport and storage of nuclear fuels or radioactive wastes; the manufacture; use, storage, disposal and transport of radioisotopes for agricultural, industrial, medical and related scientific research purposes; and the use of radioisotopes for power generation in space objects. The circumstances are that the accident is one (a) from which a release of radioactive material occurs or is likely to occur, (b) which has resulted or may result in a transboundary release of that material, and (c) where the transboundary release could be radiological safety significance for another state.

Article 2 requries that the state party referred to in article 1 forthwith notify those states which are or may be physically affected and the IAEA of the accident, its nature, the time of its occurrence and its exact location where appropriate. That state party must also promptly provide affected states and the IAEA the available information relevant to minimizing radiological consequences specified in article 5. In the case of an accident which occurs in a location that could have resulted in reporting obligations for two state parties, the responsibility for reporting is unambiguously defined to lie with the state with jurisdiction over the nuclear facility involved. This avoids multiple reporting responsibilities for the same accident, with the possibility of confusion or controversy at a time of crisis, and insures that the one state which best knows about the nature and development of the accident has the reporting responsibility.

While the reporting obligations in the convention apply to a wide range of civil and military facilities and activities, they do not apply to accidents involving nuclear weapons, nuclear weapon components, capabilities, operations or plans, or plans for testing, storage, transportation or recovery of such weapons or components, and related nuclear materials. However, article 3 provides that nuclear accidents other than those specified in article 1 may be notified at a state party's discretion with a view to minimizing radiological consequences. In this regard, Secretary Herrington reaf-

firmed longstanding U.S. policy at the Special Session of the IAEA General Conference: "The United States will . . . voluntarily provide notification with respect to any other nuclear accident which has or may have transboundary effects of radiological safety significance." Similar statements concerning voluntary notification were also made by the other nuclear-weapons states.

Article 4 requires that the IAEA inform state parties, member states, other states that may be physically affected and relevant international intergovernmental organizations of the notification of the accident and, upon request, provide them with the information made available under article 5 about the accident. The IAEA role under article 4 of the notification convention was intentionally limited to the reception and transmission of information subsequent to an accident within the scope or article 1, consistent with the IAEA Statute.

Article 5 specifies the information to be provided. It recognizes, however, that a state should not delay providing information if some data are lacking, and thus calls for the data "as then available," to be supplemented at appropriate intervals by further relevant information. The information to be provided is: the time, exact location where appropriate, and nature of the accident; the facility or activity involved; the assumed or established cause and the foreseeable relevant development of the accident; the general characteristics of the release; relevant meteorological and hydrological conditions; results of relevant environmental monitoring offsite protective measures taken or planned; and the predicted behavior of the release. The information may be used without restriction unless specifically provided in confidence. There is no obligation requiring that classified or controlled information be provided.

Article 6 requires a reporting state to respond promptly, as far as practicable, to a request for further information or consultation by an affected state party with a view to minimizing the radiological consequences in that state.

Under article 7, each state party is required to make known to the IAEA and to other state parties its competent authorities and point of contact for issuing and receiving notification and information under the convention. The points of contact and a focal point in the IAEA must be available continuously. The IAEA is required to maintain an up-to-date list of the national authorities and points of contact and to disseminate it appropriately.

Article 8 was inserted at the request of African states concerned about South Africa's unsafeguard nulcear program. It calls upon the IAEA, if requested by a state party that does not have nuclear activities and borders on a state that does but is not a party, to conduct investigations into the feasibility and establishment of an appropriate radiation monitoring system to facilitate achievement of the objectives of the convention. This and other aspects of assistance to be provided by the IAEA are to be carried out consistently with the IAEA's statute and thus confined to peaceful uses applications.

Article 9. recognizes that state parties, in furtherance of their mutual interests, may consider, where deemded appropriate, bilateral or multilateral arrangements relating to the subject of the convention. No obligation to enter into such arrangements is cre-

ated. Article 10 provides that the convention does not affect previous agreements or future agreements concluded in accordance with its object and purpose.

Article 11 concerns dispute settlement. Paragraph 2 establishes procedures for compulsory arbitration or submission to the Internationl Court of Justice. Paragraph 3 allows a state to declare it is not bound by these procedures. Because the convention covers certain military nuclear activities, and because these procedures provide a potential role for the International Court, the United States made a declaration under paragraph 3 upon signature of the convention, and this declaration should be repeated upon ratification. The declaration is attached to the text of the convention. This will ensure that no third party can require the United States to provide information about military facilities or activities that we deem is not required under the convention.

The convention was opened for signature at the IAEA in Vienna on September 26, 1986 (article 12). A special provision permits the European Atomic Energy Community to become a party (paragraph 5 of article 12). The convention entered into force internationally, on October 27, 1986, since three states expressed consent to be bound on September 26, 1986. It will enter into force for each additional adhering state 30 days after that state expresses its consent to be bound (paragraphs 3 and 4 of article 12). A procedure for amendment of the convention is provided (article 14).

A state party may denounce the convention by written notice, effective one year following the date the notification is received by the depositary (article 15). The Director General of the IAEA is the depositary of the convention, charged with the duty of notifying all states of all significant developments concerning the convention (article 16).

Article 13 permits a state to declare it will apply the convention provisionally. The United States did not make such a declaration, preferring to await advice and consent to ratification by the Senate. Secretary Herrington did, however, state at the Special Session of the IAEA General Conference: "Pending ratification by the United States of the Convention on Early Notification of a Nuclear Accident, the United States will, in the event of a nuclear accident that would be covered by article 1 of the convention, voluntarily notify states that are or may be physically affected and the IAEA, and will voluntarily provide them available information relevant to minimizing the radiological consequences."

*Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency.*—The assistance convention establishes a framework under which a state party may provide assistance to another state party in the event of a nuclear accident or radiological emergency. It does not require any state party to offer, provide or accept assistance. Two of the articles described below have provisions which permit opting out. In his statement upon signing the convention on behalf of the United States, Secretary Herrington said: "It will facilitate U.S. offers of assistance if other nations accept all the provisions of these articles."

Article 1 contains a number of general statements, which are given specific effect in the subsequent articles in the convention. Paragraph 1 makes clear that in the event of a nuclear accident or

radiological emergency, state parties shall cooperate as specified in the other provisions of the convention. Paragraph 2 makes it clear that if states parties deem it in their mutual interest, they may carry out such cooperation through bilateral or multilateral arrangements as well.

Under article 2, a state party in need of assistance may call for such assistance from any other state party and from the IAEA. Each state to which such a request is addressed undertakes promptly to decide and notify the requesting state party whether it is in a position to render the assistance requested and the scope and terms of the assistance that might be rendered. State parties are asked, to the extent possible, to tell the IAEA in advance what assistance they might be willing to provide and on what terms. In keeping with these provisions and those of article 7, the United States declared at the time of signing that reimbursement of costs is among the terms of assistance it may provide unless the United States explicitly specifies otherwise or waives reimbursement. This declaration should be repeated upon ratification. The declaration is attached to the text of the convention.

Article 3 deals with the direction and control of assistance. Unless otherwise agreed, the overall direction and control is the responsibility of the requesting state within its territory, but the assisting party is called upon to designate a person in charge of immediate operational supervision over assisting personnel and their equipment. The requesting party is to provide local facilities to the extent possible. The ownership of equipment and materials used in the assistance is not affected.

Under article 4, each state party is required to make known to the IAEA and to other state parties its competent authorities and point of contact for making and receiving requests for assistance and for accepting offers of assistance. The points of contact and a focal point in the IAEA must be available continuously. The IAEA is required regularly and expeditiously to disseminate this information appropriately.

Article 5 requests the IAEA's assistance acting within its statute. It is to collect and disseminate information on the types of assistance that could be made available in the event of a nuclear accident or radiological emergency. It is to assist a state party or member state that so requests in the preparation of emergency plans and appropriate legislation, developing appropriate training, radiation monitoring, and other matters. The IAEA is to make available to such states appropriate resources allocated for the purpose of conducting an initial assessment of the accident or emergency and to offer its good offices to such states in the event of a nuclear accident. It is to establish appropriate liaison with other international organizations on relevent matters. The IAEA conducts many of these activities already. In his final statement at the meeting at which the convention was negotiated, the leader of the U.S. delegation said he was gratified that this convention would not of itself result in requirements for additional resources for the IAEA and that it solidifies the role of the Agency in the area of nuclear safety. As noted above, this and other aspects of assistance to be provided by the IAEA are to be confined to peaceful use ap-

plications and carried out in a manner consistent with the IAEA Statute.

Under article 6, the requesting state and assisting party are required to protect information that becomes available to either of them in connection with the assistance. During the negotiation, the United States made clear that this provision called for protection of information in accordance with the national law of each state party. Article 6 further says that this information shall be used exclusively for the purpose of the agreed assistance program. It calls upon the assisting party to make every effort to coordinate with the requesting state before releasing information to the public on the assistance that is provided.

Article 7 establishes a legal right to reimbursement of costs where assistance is provided on that basis. It makes clear that an assisting party may decide to offer assistance without costs—and lists factors to be taken into account when considering whether to make such an offer—and that reimbursement may be waived after the fact. The declaration mentioned in the discussion of article 2 makes clear the United States position on these matters.

Article 8 provides for "functional" privileges and immunities for the personnel of the assisting state (paragraph 1). Paragraphs 2 and 3 contain an elaboration of the key privileges and immunities that should be provided under this functional concept, relating to immunity from arrest, detention and legal process, exemption from taxes and duties, and immunity from seizure, requisition or attachment of property. A state may declare it is not bound by the specifics of paragraphs 2 and 3. Since the United States will normally be the assisting party, it is clearly in the U.S. interest for other states that become parties not to opt out of these provisions. To encourage this result, it is recommended that the United States accept those provisions but make clear that it will not be bound with respect to any party that opts out. The United States made such a "reciprocity" declaration upon signing which should be repeated upon ratification. The proposed text is attached. it should be noted that paragraph 6 of article 8 makes explicit that nothing in the article requires a requesting state to provide its nationals or permanent residents any privileges and immunities.

Article 9 calls upon state parties to seek to facilitate transit of assisting personnel, equipment and property through their territories.

Paragraph 1 of article 10 requires state parties to cooperate in order to facilitate the settlement of claims and legal proceedings under the article. Paragraph 2 provides an assisting party and personnel acting on its behalf certain basic protections from legal proceedings and liability that may arise out of the assistance that is provided. Unless otherwise agreed, the requesting state is required, with respect to death or injury of persons, damage to or loss of property, or damage to the environment caused within its territory in the course of the assistance: (a) not to bring legal proceedings against the assisting party, (b) to deal with third party claims, (c) to hold the assisting party harmless in regard to such claims, and (d) to compensate the assisting party for death of or injury to its personnel or loss of or damage to its equipment—except in the case of wilful misconduct. As with article 8(2) and (3), there is an opt out

provision for this paragraph. A state may declare it is not bound by paragraph 2 of article 10 or that it will not apply that paragraph in cases of gross negligence.

As noted above, since the United States will normally be the assisting party, it is clearly in the U.S. interest for other states that become parties not to opt out of this provision. To encourage this result, it is recommended that the United States accept these provisions but make clear that it will not be bound with respect to any party that opts out. The United States made such a "reciprocity" declaration upon signing which should be repeated upon ratification. The proposed text is attached. It should be noted that paragraph 3 of article 10 provides that the article shall not prevent compensation or indemnity available under any applicable international agreement or national law of any state. Paragraph 4 makes explicit that nothing in the article requires a requesting state to apply paragraph 2 to its nationals or permanent residents.

Under article 11, the requesting state or assisting party may at any time, after appropriate consultations and written notification, request termination of the assistance action.

Article 12 provides that the convention does not affect previous agreements or future agreements concluded in accordance with its object and purpose.

Article 13 concerns dispute settlement. Paragraph 2 establishes procedures for compulsory arbitration or submission to the International Court of Justice. Paragraph 3 allows a state to declare it is not bound by these procedures. As with the notification convention, the United States made such a declaration upon signature of the convention, and this declaration should be repeated upon ratification. The proposed text is attached.

The convention was opened for signature at the IAEA in Vienna on September 26, 1986 (article 14). A special provision permits the European Atomic Energy Community to become a party (paragraph 5 of article 14). The convention entered into force internationally on February 26, 1987, and will enter into force for each additional state adhering to it 30 days after that state expresses its consent to be bound (paragraphs 3 and 4 of article 14). A procedure for amendment of the convention is provided (article 16). A state party may denounce the convention by written notice, effective one year following the date the notification is received by depositary (article 17). The Director General of the IAEA is the depositary of the convention, charged with the duty of notifying all states of all significant developments concerning the convention (article 18).

Article 15 permits a state to declare it will apply the convention provisionally. The United States did not make such a declaration, since ratification of the convention as a treaty with the advice and consent of the Senate is required under United States domestic law for the United States to be able to implement articles 8 and 10 fully.

### ENTRY INTO FORCE

The notification and assistance conventions were open for signature at the IAEA in Vienna on September 26, 1986, and entered into force internationally on October 27, 1986, and February 26,

1987, respectively, in accordance with their provision for taking effect 30 days after three states expressed their consent to be bound. Presently, the notification convention has been signed by 72 states and has entered into force for 27 states; the assistance convention has been signed by 70 states and entered into force for 22 states. Both conventions now enter into force for a particular state 30 days after the date of its expression of consent to be bound.

### TEXT OF RESOLUTION OF RATIFICATION

*Resolved, (two-thirds of the Senators present concurring therein),* That the Senate advise and consent to the ratification of the Convention on Early Notification of a Nuclear Accident and the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, done at Vienna on September 26, 1986, subject to the following declarations on the part of the United States of America:

### WITH RESPECT TO THE CONVENTION ON EARLY NOTIFICATION OF A NUCLEAR ACCIDENT

As provided for in paragraph 3 of article 11, the United States declares that it does not consider itself bound by either of the dispute settlement procedures provided for in paragraph 2 of that article.

### WITH RESPECT TO THE CONVENTION ON ASSISTANCE IN THE CASE OF A NUCLEAR ACCIDENT OR RADIOLOGICAL EMERGENCY

In accordance with paragraphs 3 and 4 of article 2 and paragraph 2 of article 7, the United States declares that reimbursement of costs is among the terms of assistance it may provide unless the United States explicitly specifies otherwise or waives reimbursements.

With respect to any other state party that has declared pursuant to paragraph 9 of article 8 that it does not consider itself bound in whole or in part by paragraph 2 or 3, the United States declares pursuant to paragraph 9 that in its treaty relations with that state the United States does not consider itself bound by paragraphs 2 and 3 to the same extent provided in the declaration of that other state party.

With respect to any other state party that has declared pursuant to paragraph 5 of article 10 that it does not consider itself bound in whole or in part by paragraph 2 or that it will not apply paragraph 2 in whole or in part in cases of gross negligence, the United States declares pursuant to paragraph 5 that in its treaty relations with that state the United States does not consider itself bound by paragraph 2 to the same extent as provided in the declaration of that other state party.

As provided for in paragraph 3 of article 13, the United States declares that it does not consider itself bound by either of the dispute settlement procedures provided for in paragraph 2 of that article.

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